

REMARKS/ARGUMENTS

In view of the amendments and remarks herein, favorable reconsideration and allowance of this application are respectfully requested. By this Amendment, claim 6 has been amended. Claim 10 has been cancelled and claim 11 has been added. Claims 6-9 and 11 are pending for further examination.

Claims 6 and 9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Martin et al. (U.S. Pat. 5,355,302 “Martin”) in further view of Ludwig (U.S. Pat. 5,689,641 “Ludwig”), Hendricks et al. (U.S. Pat. 6,408,437 “Hendricks”), Vogel (U.S. Pat. 5,117,407 “Vogel”), and Frank et al. (U.S. Pat. 5,341,350 “Frank”). Applicant respectfully submits that the prior art of record does not teach or suggest the claimed combination.

For example, claim 6, as amended, recites “providing a management function that enables an authorized manager of the jukebox device to locally access and selectively adjust adjustable operation settings for the jukebox device through use of the touchscreen display, a plurality of the adjustable settings being adjustable over a predetermined range.”

The Office Action concedes that Martin does not specifically teach providing a management function and introduces Vogel to compensate for this deficiency. According to the Office Action, the claimed element is met by “control means for providing management functions (Vogel 5:25-43).” Vogel, however, does not teach or suggest a management function as claimed.

Vogel teaches “additional control means to provide delivery of messages directed to the public as requested by an operator of the jukebox.”(Col. 5, lines 27-28).

Applicant’s management function allows an operator to adjust operation settings such as, for example: volume, microphone control, balance control, base, and treble. While these specific settings are not enumerated in the claim, their enumeration in the specification in a non-exhaustive list is useful in understanding what is meant by “operation settings” and “a plurality of the adjustable settings being adjustable over a predetermined range.” It is not the failure of Vogel to teach adjustment of these specific settings that causes Vogel to fall short, but rather the failure of Vogel to teach or suggest adjustment of anything resembling these settings through it’s alleged “control means for providing management functions.”

Vogel’s operator interface allows an operator of a jukebox, through use of a keyboard, to input, for example, a name and a number, to personalize a prewritten birthday message. Such a function is not an adjustable operation setting for the jukebox device. Further, since such a teaching does not teach adjusting operation settings, a combination of Vogel with the other prior art of record would merely result in a jukebox wherein the above noted name and number could be input through a touchscreen as opposed to a keyboard.

Vogel is silent both on adjusting the operation settings of a jukebox and on a function allowing operation of those settings. Absent such a teaching, combining Vogel with the additional prior art of record still does not result in the claimed “providing a

management function that enables an authorized manager of the jukebox device to locally access and selectively adjust adjustable operation settings for the jukebox device through use of the touchscreen display, a plurality of the adjustable settings being adjustable over a predetermined range.”

Claim 6, as amended, also recites “providing a second management function that enables an authorized manager of the jukebox device to access and selectively modify operating settings for the jukebox device through use of a remote control.”

The Office Action alleges that the above limitation (previously included in claim 10) is met by Martin/Frank/Ludwig/Hendricks/Vogel’s alleged teaching of a management function that enables an authorized manager to access and selectively modify operating setting in combination with the remote control taught by Miyashita (U.S. Pat. 5,467,326).

Applicant has taken issue with the allegations that such a management control function is taught by Martin/Frank/Ludwig/Hendricks/Vogel as noted above. However, even if Martin/Frank/Ludwig/Hendricks/Vogel is said to teach or suggest such a management control function, combination with Miyashita does not result in the claimed “function that enables an authorized manager of the jukebox device to access and selectively modify operating settings for the jukebox device through use of a remote control.”

Miyashita teaches a remote control that can be used to designate a music selection. No other function, attribute or ability is taught to be given to this remote control. There is no teaching or suggestion that the remote can adjust any settings, or that the remote

does anything other than allow selection of songs. Thus, even if the remote of Miyashita is combined with Martin/Frank/Ludwig/Hendricks/Vogel, the combination still does not have the claimed functionality, since none of the references teach or suggest providing such functionality to a remote control or even that such functionality could be provided to a remote control.

Finally, claim 6 recites, “A method of operating a jukebox system for use in a public establishment.” While Hendricks has been introduced as allegedly teaching “modifying said jukebox device, upon receipt by said jukebox device of said update data, such that said jukebox device will operate in accordance with new operating software updated by use of said update data received from said server system over said distribution network,” Applicant submits that one of skill in the art in the field of public-use, jukebox, pay-per-use, money collecting jukeboxes would not have been motivated to look to the teachings of a reference directed at home-use, TV, subscription, billing-based set-top devices. The two fields are not analogous.

The TV set-top device of Hendricks is designed for home use, not use in a public establishment. Hendricks uses the word “home” nineteen times in the context of the private use device thereof, and not once do the teachings of Hendricks disclose or suggest that the boxes are for public use, or even use the word “public” for that matter. The opening line of the Background of the Invention section says it all “The invention relates to television entertainment systems for providing television programming to consumer homes.”

Contrast this to Applicant's opening statements "The invention relates to a communications process for a payment triggered audiovisual reproduction system. These audiovisual reproduction systems are usually found in cafés or pubs." Similarly, Applicant has also claimed "A method of operating a jukebox system for use in a public establishment."

Thus, Applicant submits that the teachings of Hendricks, regardless of what they teach, are non-analogous art and should not be applied to the present combination of prior art, as one of skill in the art would not have been motivated to look to them for a solution regarding jukeboxes designed for use in a public establishment.

For at least these reasons, Applicant submits that claim 6 is allowable over the prior art of record. Claim 9 should be allowable based on its dependency from allowable claim 6.

Claims 7 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Martin/Frank/Ludwig/Hendricks/Vogel in further view of Beaverton (5,210,854). Beaverton does not cure the noted deficiencies of Martin/Frank/Ludwig/Hendricks/Vogel with respect to claim 6, and claims 7 and 8 should be allowable based at least on their dependency from allowable claim 6.

Claim 11 recites additional elements not found in the prior art of record, and should be allowable both based on its dependency from claim 6 and the recitation of novel limitations.

NATHAN et al.
Appl. No. 09/902,707
October 3, 2007

For at least the foregoing reasons, Applicant respectfully submits that the invention defined by the amended claims herein is not taught or suggested by the prior art of record. Thus, withdrawal of the rejections and allowance of this application are earnestly solicited.

Should the Examiner have any questions, please do not hesitate to call the undersigned attorney at the phone number below.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



Joseph S. Presta
Reg. No. 35,329

JSP:mg
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100